

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOHN BAKER,

Plaintiff,

v.

ROBERT GUANCIAL,  
LAWRENCE ERB,  
MICHAEL FINNEGAN,  
GERALD RAKIECKI,  
DANIEL CACCIOLA, and  
JEFFREY PETERKIN,

Defendants.

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**ORDER**

**04-CV-433A(F)**

Plaintiff's motion for reconsideration (Doc. No. 47) is DENIED. Plaintiff fails to point to any facts or authority overlooked by the court that might reasonably have caused the court to reach a different conclusion or that failure to grant reconsideration will result in manifest injustice. *See Griffin Industries, Inc. v. Petrojan, Ltd.*, 72 F.Supp.2d 368, 368 (S.D.N.Y. 1999). The fact that Plaintiff was unable to include affidavits of service upon certain Defendants with his Rule 4(m) motion is irrelevant as it merely confirms what the facts, previously submitted by Plaintiff, already demonstrated, *i.e.*, that Plaintiff had the ability to serve Defendants prior to the April 13, 2005 deadline established by the court in its February 8, 2005 order (Doc. No. 27) upon Plaintiff's motion pursuant to Rule 4(m). Nor does Plaintiff point to any manifest injustice that will result if this court refuses to reconsider its June 14<sup>th</sup> Decision and Order. Plaintiff has stated he intends to appeal that order pursuant to Fed.R.Civ.P. 72(a). As such, the correctness of that order is subject, under the applicable standard to review, by the District Judge assigned to this case.

**CONCLUSION**

Plaintiff's motion for reconsideration (Doc. No. 47) is therefore DENIED.

SO ORDERED.

*/s/ Leslie G. Foschio*

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LESLIE G. FOSCHIO  
UNITED STATES MAGISTRATE JUDGE

Dated: July 19, 2005  
Buffalo, New York

PLAINTIFF IS ADVISED THAT ANY APPEAL OF THIS DECISION AND ORDER MUST BE TAKEN BY FILING WRITTEN OBJECTION WITH THE CLERK OF COURT **NOT LATER THAN 10 DAYS** AFTER SERVICE OF THIS DECISION AND ORDER IN ACCORDANCE WITH FED.R.CIV.P. 72(a).